

**FILED**  
Clerk of the Superior Court

JAN 13 2017

By: V. Clarion, Deputy

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12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
13 **FOR THE COUNTY OF SAN DIEGO - CENTRAL DIVISION**  
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15 DAMIEN RHANEY, on behalf of himself, all  
16 others similarly situated, and the general  
17 public,

18 Plaintiffs,

19 vs.

20 DEL TACO LLC, a California limited liability  
21 company; and DOES 1 through 500, inclusive,

22 Defendants.  
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Case No.: 37-2015-00019772-CU-BT-CTL

~~PROPOSED~~ ORDER ON MOTION FOR  
PRELIMINARY APPROVAL OF CLASS  
SETTLEMENT

[Cal.R.Ct. 3.769(g), (h)]

DATE: January 13, 2017

TIME: 10:30 a.m.

DEPT.: C-68

JUDGE: Hon. Judith F. Hayes

Action Filed: June 12, 2015

1 Plaintiff Damien Rhaney's ("Plaintiff") motion for an order preliminarily approving a  
2 proposed settlement ("Agreement") of the above-entitled putative class action came on for  
3 hearing on January 13, 2017. The Court, having reviewed the papers filed in connection with the  
4 motion for preliminary approval, including the parties' settlement agreement attached to the  
5 Declaration of Robert Hancock (the "Settlement Agreement"); the Court, being fully advised of  
6 the premises and good cause appearing therefore, the Court enters its order and, subject to final  
7 determination by the Court as to the fairness, adequacy and reasonableness of the Settlement  
8 Agreement, finds and orders as follows:

9 **IT IS HEREBY ORDERED THAT:**

10 1. Plaintiff's Motion for Preliminary Approval of Class Action Settlement,  
11 Certification of a Settlement Class, and Approval of Class Notice is GRANTED pursuant to  
12 California Rule of Court Rule 3.769.

13 2. The parties' settlement, which the Court finds was negotiated at arms-length, is  
14 preliminarily approved as fair, reasonable and adequate for settlement purposes.

15 3. The Court conditionally certifies, for settlement purposes only (and for no other  
16 purpose and with no other effect upon this or any other action, including no effect upon this  
17 action should the settlement not ultimately be approved), a class of "[a]ll purchasers and/or  
18 recipients of any Del Taco gift card between June 12, 2011 and the date of publication of the  
19 class notice herein who requested a refund of any Del Taco gift card that had at the time of the  
20 requested refund a cash value of less than ten dollars (\$10.00) from a Del Taco store located  
21 within the State of California." (the "Class"). The Class is conditionally certified as to plaintiff's  
22 first, third and fourth causes of action. In certifying the class for settlement purposes, the Court  
23 finds that:

- 24 a. The Class is so numerous that joinder of all members is impracticable.  
25 b. There are questions of law or fact common to the class, and such questions  
26 predominate over questions affecting only individual class members.  
27 c. The claims advanced by Plaintiff are typical of the claims of the class.

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1 d. The Court appoints, for settlement purposes only, Plaintiff Damien  
2 Rhaney as representative of the Class. The representative Plaintiff will fairly and adequately  
3 protect the interests of the class in that he has no interests in conflict with or antagonistic to those  
4 of the class, and he has retained counsel experienced in class and public interest litigation. The  
5 Court hereby appoints, for settlement purposes only, the Pacific Justice Center and the Law  
6 Office of Gary D. Garcia as counsel for the Plaintiff Settlement Class.

7 e. Certification of a Plaintiff Settlement Class by the Court is superior to any  
8 other available method for the fair and efficient adjudication of the controversy herein.

9 4. The Court finds that the manner and content of the class notice specified in  
10 paragraph 2.3 of the Settlement Agreement on file herein ("Class Notice"), shall provide the best  
11 practicable notice to the Class, and comports with all federal and state due process requirements.  
12 Said Class Notice shall be disseminated within 30 days of entry of this Order.

13 5. Defendant shall pay all costs associated with publishing the Class Notice and  
14 administering the settlement as provided in the Settlement Agreement.

15 6. A fairness hearing shall be held by this Court on June 30  
16 2017, at 10:30 a.m. ~~p.m.~~ in Department 68, to consider fully and finally determine whether the  
17 Settlement Agreement should be approved as fair, reasonable and adequate. The fairness hearing  
18 may be postponed, adjourned or continued by order of the Court without further notice to the  
19 Class.

20 7. Any papers in support of the Settlement Agreement may be filed with the Court  
21 sixteen (16) court days prior to the fairness hearing.

22 8. Any Class Member who desires exclusion from the class must do so in  
23 accordance with Paragraph 3.5 of the Settlement Agreement.

24 9. Any member of the Class ("Class Member") who wishes to object to the Proposed  
25 Settlement must do so in accordance with Paragraph 3.4 of the Settlement Agreement.

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1           10. If the Settlement Agreement is approved at the fairness hearing, the Court shall  
2 enter a Final Order Approving the Settlement Agreement and Judgment (“Final Order”). The  
3 Final Order shall be fully binding with respect to all Class Members who did not request  
4 exclusion in accordance with the terms and requirements of the Settlement Agreement.

5           11. All discovery and other pretrial proceedings in this action are stayed and  
6 suspended until further order of this Court, except such actions as may be necessary to  
7 implement the Settlement Agreement or this Order.

8           12. In sum, the dates for performance are as follows:

9           a. Notice must be published not later than 30 days after entry of this Order.

10           b. Objections to the settlement must be made no later than 90 days after  
11 dissemination of the notice.

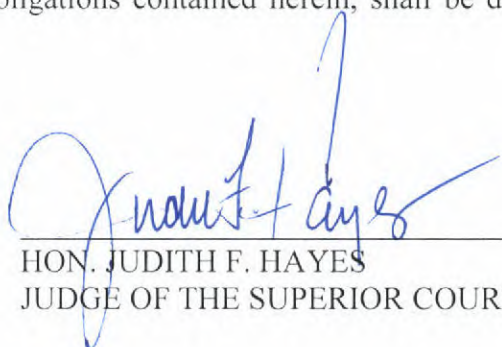
12           c. All Class Members who are eligible to request exclusion and desire to be  
13 excluded must, as detailed in Paragraph 3.5 of the Settlement Agreement, submit a letter to Class  
14 Counsel and Defendant’s Counsel be postmarked no later than 90 days after dissemination of the  
15 notice.

16           d. Any papers in support of final approval of the Settlement Agreement must  
17 be filed with the Court at least 16 court days prior to the final fairness hearing.

18           e. The final fairness hearing is to be held on June 30, 2017,  
19 at 10:30 p.m.

20           14. In the event that the Final Order is not entered for any reason, then the Settlement  
21 Agreement, as well as the findings and obligations contained herein, shall be deemed in their  
22 entirety as null and void *ab initio*.

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25 Dated: January 13, 2017

  
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HON. JUDITH F. HAYES  
JUDGE OF THE SUPERIOR COURT